

110TH CONGRESS
1ST SESSION

S. 644

To amend title 38, United States Code, to recodify as part of that title certain educational assistance programs for members of the reserve components of the Armed Forces, to improve such programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2007

Mrs. LINCOLN (for herself, Ms. COLLINS, Mr. DORGAN, Ms. SNOWE, Mr. COLEMAN, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 38, United States Code, to recodify as part of that title certain educational assistance programs for members of the reserve components of the Armed Forces, to improve such programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Total Force Edu-
5 cational Assistance Enhancement and Integration Act of
6 2007”.

1 **SEC. 2. RECODIFICATION IN TITLE 38, UNITED STATES**
 2 **CODE, AND IMPROVEMENT OF CERTAIN EDU-**
 3 **CATIONAL ASSISTANCE PROGRAMS FOR**
 4 **MEMBERS OF THE RESERVE COMPONENTS.**

5 (a) PURPOSE.—The purpose of this section is to re-
 6 codify in title 38, United States Code, the provisions of
 7 chapters 1606 and 1607 of title 10, United States Code,
 8 relating to educational assistance for members of the re-
 9 serve components of the Armed Forces, and to make cer-
 10 tain improvements in such provisions as so recodified.

11 (b) RECODIFICATION AND IMPROVEMENT OF EDU-
 12 CATIONAL ASSISTANCE PROGRAMS.—

13 (1) IN GENERAL.—Part III of title 38, United
 14 States Code, is amended by inserting after chapter
 15 32 the following new chapter:

16 **“CHAPTER 33—EDUCATIONAL ASSIST-**
 17 **ANCE FOR MEMBERS OF THE RE-**
 18 **SERVE COMPONENTS**

“SUBCHAPTER I—MEMBERS OF THE SELECTED RESERVE

“Sec.

“3301. Educational assistance program: purpose.

“3302. Eligibility.

“3302A. Eligibility of individuals entitled to educational assistance under former
chapter 1606 of title 10.

“3303. Amount.

“3304. Termination of assistance.

“3305. Failure to participate satisfactorily; penalties.

“3306. Reports to Congress.

“SUBCHAPTER II—RESERVE COMPONENT MEMBERS SUPPORTING
CONTINGENCY OPERATIONS AND CERTAIN OTHER OPERATIONS

“3321. Purpose.

“3322. Educational assistance program.

“3323. Eligibility.

“3323A. Eligibility of individuals entitled to educational assistance under former chapter 1607 of title 10.

“3324. Amount.

“3325. Time limitation for use of entitlement.

“3326. Termination of assistance.

“SUBCHAPTER III—ADMINISTRATIVE MATTERS

“3341. Administration of programs.

“3342. Funding.

1 “SUBCHAPTER I—MEMBERS OF THE SELECTED 2 RESERVE

3 “§ 3301. Educational assistance program: purpose

4 “To encourage membership in units of the Selected
5 Reserve of the Ready Reserve, the Secretary of Veterans
6 Affairs, in consultation with the Secretary of Defense and
7 the Secretary of Homeland Security, with respect to the
8 Coast Guard when it is not operating as a service in the
9 Navy, shall carry out under this subchapter a program
10 to provide educational assistance to members of the Se-
11 lected Reserve of the Ready Reserve of the Armed Forces
12 who agree to remain members of the Selected Reserve for
13 a period of not less than six years.

14 “§ 3302. Eligibility

15 “(a) IN GENERAL.—A person is entitled to edu-
16 cational assistance under the program of educational as-
17 sistance under this subchapter if the person—

18 “(1) after October 1, 2008—

19 “(A) enlists, reenlists, or extends an enlist-
20 ment as a Reserve for service in the Selected

1 Reserve for a period of not less than six years;
 2 or

3 “(B) is appointed as, or is serving as, a re-
 4 serve officer and agrees to serve in the Selected
 5 Reserve for a period of not less than six years
 6 in addition to any other period of obligated
 7 service in the Selected Reserve to which the
 8 person may be subject; and

9 “(2) before applying for benefits under this
 10 subchapter, has completed the requirements of a sec-
 11 ondary school diploma (or an equivalency certifi-
 12 cate).

13 “(b) COMPLETION OF ACTIVE DUTY FOR TRAIN-
 14 ING.—Educational assistance may not be provided to a
 15 member under this subchapter until the member has com-
 16 pleted the initial period of active duty for training required
 17 of the member.

18 “(c) NOTICE ON ENTITLEMENT.—(1) Each person
 19 who becomes entitled to educational assistance under sub-
 20 section (a) shall at the time the person becomes so entitled
 21 be given a statement in writing summarizing the provi-
 22 sions of this subchapter and stating clearly and promi-
 23 nently the substance of sections 3304 and 3305 of this
 24 title as such sections may apply to the person.

1 “(2) In accordance with a memorandum of under-
 2 standing entered into between the Secretary of Veterans
 3 Affairs and the Secretary of Defense, the Secretary of De-
 4 fense shall transmit a notice of entitlement for each mem-
 5 ber so entitled to the Secretary of Veterans Affairs.

6 “(d) INAPPLICABILITY OF CERTAIN DUTY TOWARD
 7 ENTITLEMENT.—A person may not receive credit under
 8 this subchapter for service (in any grade) on full-time ac-
 9 tive duty or full-time National Guard duty for the purpose
 10 of organizing, administering, recruiting, instructing, or
 11 training the reserve components in a position which is in-
 12 cluded in the end strength required to be authorized each
 13 year by section 115(a)(1)(B) of title 10.

14 “(e) BAR TO DUPLICATION OF EDUCATIONAL AS-
 15 SISTANCE.—The provisions of section 3033(a) of this title,
 16 relating to a bar on duplication of receipt of certain edu-
 17 cational assistance benefits, apply with respect to the re-
 18 ceipt of educational assistance under this subchapter.

19 **“§ 3302A. Eligibility of individuals entitled to edu-**
 20 **cational assistance under former chapter**
 21 **1606 of title 10**

22 “(a) IN GENERAL.—Subject to the provisions of this
 23 section, any individual entitled to educational assistance
 24 under chapter 1606 of title 10 as of October 1, 2008, shall
 25 be entitled to educational assistance under this subchapter

1 thereafter for the programs of education, in the amounts,
2 and subject to the conditions and limitations provided in
3 sections 3303 through 3305 of this title.

4 “(b) LIMITATION ON MONTHS OF ENTITLEMENT.—
5 The number of months of entitlement to educational as-
6 sistance under this subchapter of an individual described
7 in subsection (a) by reason of this section as of October
8 1, 2008, shall be equal to the number of months of entitle-
9 ment of such individual to educational assistance under
10 chapter 1606 of title 10 that remain unutilized by such
11 individual as of that date.

12 “(c) TIME LIMITATION FOR USE OF ENTITLE-
13 MENT.—(1) Except as provided in paragraph (2), the pro-
14 visions of section 16133 of title 10, as in effect on Sep-
15 tember 30, 2008, shall apply to the time for the use by
16 an individual described in subsection (a) of entitlement to
17 educational assistance under this subchapter by reason of
18 this section.

19 “(2) Clause (1) of section 16133(a) of title 10, as
20 in effect on September 30, 2008, shall not apply to the
21 time for the use by an individual described in subsection
22 (a) of entitlement to educational assistance under this sub-
23 chapter by reason of this section.

1 **“§ 3303. Amount**

2 “(a) IN GENERAL.—(1) Subject to the provisions of
3 this section, the Secretary shall provide for payment to
4 each person entitled to educational assistance under this
5 subchapter who is pursuing a program of education de-
6 scribed by subsection (b) of an educational assistance al-
7 lowance at the following rates:

8 “(A) \$309 (as increased from time to time
9 under paragraphs (2) and (3)) per month for each
10 month of full-time pursuit of a program of edu-
11 cation.

12 “(B) \$231 (as increased from time to time
13 under paragraphs (2) and (3)) per month for each
14 month of three-quarter-time pursuit of a program of
15 education.

16 “(C) \$153 (as increased from time to time
17 under paragraphs (2) and (3)) per month for each
18 month of half-time pursuit of a program of edu-
19 cation.

20 “(D) \$77.25 (as increased from time to time
21 under paragraphs (2) and (3)) per month for each
22 month of less than half-time pursuit of a program
23 of education, except that no payment may be made
24 to a person for less than half-time pursuit if tuition
25 assistance is otherwise available to the person for

1 such pursuit from the military department con-
2 cerned.

3 “(2) With respect to any fiscal year, the Secretary
4 shall provide a percentage increase (rounded to the near-
5 est dollar) in the rates payable under subparagraphs (A)
6 through (D) of paragraph (1) equal to the percentage in-
7 crease provided under subsection (h) of section 3015 of
8 this title to the rates payable under subsection (a) of that
9 section.

10 “(3) In the event of any increase by law (other than
11 an increase under paragraph (2)) in the rates of basic edu-
12 cational assistance payable under section 3015(a) of this
13 title, effective for months beginning on or after the month
14 in which such increase goes into effect the Secretary shall
15 provide a percentage increase (rounded to the nearest dol-
16 lar) in the rates payable under subparagraphs (A) through
17 (D) of paragraph (1) equal to such percentage increase
18 in such rates of basic educational assistance by law.

19 “(b) AUTHORIZED EDUCATION PROGRAMS.—Edu-
20 cational assistance may be provided under this subchapter
21 for pursuit of any program of education that is an ap-
22 proved program of education for purposes of chapter 30
23 of this title.

24 “(c) MAXIMUM MONTHS OF ASSISTANCE.—(1) Sub-
25 ject to section 3695 of this title, the maximum number

1 of months of educational assistance that may be provided
 2 to any person under this subchapter is 36 (or the equiva-
 3 lent thereof in part-time educational assistance).

4 “(2)(A) Notwithstanding any other provision of this
 5 subchapter or chapter 36 of this title, any payment of an
 6 educational assistance allowance described in subpara-
 7 graph (B) shall not—

8 “(i) be charged against the entitlement of a
 9 person under this subchapter; or

10 “(ii) be counted toward the aggregate period for
 11 which section 3695 of this title limits a person’s re-
 12 ceipt of assistance.

13 “(B) The payment of an educational assistance allow-
 14 ance referred to in subparagraph (A) is the payment of
 15 such an allowance to a person for pursuit of a course or
 16 courses under this subchapter if the Secretary finds that
 17 the person—

18 “(i) had to discontinue such course pursuit as
 19 a result of being ordered to serve on active duty
 20 under section 12301(a), 12301(d), 12301(g), 12302,
 21 or 12304 of title 10; and

22 “(ii) failed to receive credit or training time to-
 23 ward completion of the person’s approved edu-
 24 cational, professional, or vocational objective as a re-

1 sult of having to discontinue, as described in clause
2 (i), the person’s course pursuit.

3 “(C) The period for which, by reason of this para-
4 graph, an educational assistance allowance is not charged
5 against entitlement or counted toward the applicable ag-
6 gregate period under section 3695 of this title shall not
7 exceed the portion of the period of enrollment in the
8 course or courses for which the person involved failed to
9 receive credit or with respect to which such person lost
10 training time, as determined under subparagraph (B)(ii).

11 “(d) APPRENTICESHIPS; ON-JOB TRAINING.—(1)
12 Educational assistance is payable under this subchapter
13 to a person entitled to educational assistance under this
14 subchapter for pursuit of a full-time program of appren-
15 ticeship or other on-job training.

16 “(2)(A) For purposes of this subchapter, the rate of
17 payment of educational assistance allowances, and the
18 charge against entitlement for receipt of such allowances,
19 under this subsection shall be governed by the provisions
20 of section 3032(e) of this title.

21 “(B) In the administration of the provisions referred
22 to in subparagraph (A) for purposes of this subchapter—

23 “(i) a reference to ‘an individual’ shall be
24 deemed to be a reference to a person entitled to edu-
25 cational assistance under this subchapter;

1 “(ii) a reference to ‘this chapter’ shall be
2 deemed to be a reference to this subchapter; and

3 “(iii) a reference to ‘the monthly educational
4 assistance allowance otherwise payable to such indi-
5 vidual’ shall be deemed to be a reference to the
6 monthly educational assistance allowance otherwise
7 payable to the person concerned under this sub-
8 chapter (including any such allowance under sub-
9 section (a) and any such allowance under subsection
10 (i)).

11 “(e) CORRESPONDENCE COURSES.—(1) Educational
12 assistance is payable under this subchapter to a person
13 entitled to educational assistance under this subchapter
14 who enters into an agreement to pursue, and pursues, a
15 program of education exclusively by correspondence.

16 “(2)(A) For purposes of this subchapter, the rate of
17 payment of educational assistance allowances, and the
18 charge against entitlement for receipt of such allowances,
19 under this subsection shall be governed by the provisions
20 of section 3032(d) of this title.

21 “(B) In the administration of the provisions referred
22 to in subparagraph (A) for purposes of this subchapter—

23 “(i) a reference ‘an individual’ shall be deemed
24 to be a reference to a person entitled to educational
25 assistance under this subchapter;

1 “(ii) a reference to ‘this chapter’ shall be
2 deemed to be a reference to this subchapter; and

3 “(iii) a reference to ‘the amount of monthly as-
4 sistance the individual would otherwise be eligible to
5 receive for full-time pursuit of an institutional
6 course’ shall be deemed to be a reference to the
7 monthly educational assistance allowance otherwise
8 payable to the person concerned under this sub-
9 chapter (including any such allowance under sub-
10 section (a) and any such allowance under subsection
11 (i)).

12 “(f) FLIGHT TRAINING.—(1) Educational assistance
13 is payable under this subchapter to a person entitled to
14 educational assistance under this subchapter for pursuit
15 of a program of education consisting of exclusively of
16 flight training approved under section 3034(d) of this
17 title, subject to the conditions specified in paragraphs (2)
18 and (4) of section 3032(e) of this title.

19 “(2)(A) For purposes of this subchapter, the rate of
20 payment of educational assistance allowances, and the
21 charge against entitlement for receipt of such allowances,
22 under this subsection shall be governed by the provisions
23 of section 3032(e) of this title.

24 “(B) In the administration of the provisions referred
25 to in subparagraph (A) for purposes of this subchapter—

1 “(i) a reference to ‘an individual’ shall be
2 deemed to be a reference to a person entitled to edu-
3 cational assistance under this subchapter;

4 “(ii) a reference to ‘this chapter’ shall be
5 deemed to be a reference to this subchapter; and

6 “(iii) a reference to ‘the monthly rate of edu-
7 cation assistance which such individual would other-
8 wise be paid’ shall be deemed to be a reference to
9 the monthly amount of educational assistance other-
10 wise payable to the person concerned under this sub-
11 chapter (including any such allowance under sub-
12 section (a) and any such allowance under subsection
13 (i)).

14 “(g) LICENSING AND CERTIFICATION TESTS.—(1)
15 Educational assistance is payable under this subchapter
16 to a person entitled to educational assistance under this
17 subchapter for a licensing or certification test described
18 in section 3452(b) of this title.

19 “(2)(A) For purposes of this subchapter, the amount
20 payable for a licensing or certification test, the charge
21 against entitlement for receipt of such payment, and the
22 effect of expiration of entitlement on payments, under this
23 subsection is governed by the provisions of section 3032(f)
24 of this title.

1 “(B) In the administration of the provisions referred
2 to in subparagraph (A) for purposes of this subchapter—

3 “(i) a reference to ‘an individual’ shall be
4 deemed to be a reference to a person entitled to edu-
5 cational assistance under this subchapter;

6 “(ii) a reference to ‘this chapter’ shall be
7 deemed to be a reference to this subchapter; and

8 “(iii) a reference to ‘the full-time monthly insti-
9 tutional rate of educational assistance which such in-
10 dividual would otherwise be paid’ shall be deemed to
11 a reference to the monthly amount of educational as-
12 sistance allowance otherwise payable to the person
13 concerned under this subchapter (including any such
14 allowance under subsection (a) and any such allow-
15 ance under subsection (i)).

16 “(h) INDIVIDUALIZED TUTORIAL ASSISTANCE.—(1)
17 A person entitled to educational assistance under this sub-
18 chapter is entitled to individualized tutorial assistance in
19 accordance with the provisions of section 3492 of this title,
20 subject to the conditions applicable to an eligible veteran
21 under that section.

22 “(2) The amount of individualized tutorial assistance
23 provided under this subsection shall be governed by the
24 provisions of section 3019(b) of this title.

1 “(3)(A) For purposes of this subchapter, the charge
 2 against entitlement of individualized tutorial assistance re-
 3 ceived under this subsection shall be governed by the pro-
 4 visions of section 3019(c) of this title.

5 “(B) In the administration of the provisions referred
 6 to in subparagraph (A) for purposes of this subchapter—

7 “(i) a reference to ‘an individual’ shall be
 8 deemed to be a reference to a person entitled to edu-
 9 cational assistance under this subchapter;

10 “(ii) a reference to ‘this chapter’ shall be
 11 deemed to be a reference to this subchapter; and

12 “(iii) a reference to ‘the amount of monthly as-
 13 sistance which the individual is otherwise eligible to
 14 receive for full-time pursuit of an institutional
 15 course’ shall be deemed to be a reference to the
 16 monthly amount of educational assistance allowance
 17 otherwise payable to the person concerned under this
 18 subchapter (including any such allowance under sub-
 19 section (a) and any such allowance under subsection
 20 (i)).

21 “(i) INCREASED RATE OF ASSISTANCE FOR PERSONS
 22 WITH CERTAIN SKILLS.—(1) In the case of a person who
 23 has a skill or specialty designated by the Secretary of De-
 24 fense as a skill or specialty in which there is a critical
 25 shortage of personnel or for which it is difficult to recruit

1 or, in the case of critical units, retain personnel, the Sec-
2 retary of Veterans Affairs may increase the rate of the
3 educational assistance allowance applicable to that person
4 to such rate in excess of the rate prescribed under sub-
5 paragraphs (A) through (D) of subsection (a)(1) as the
6 Secretary of Veterans Affairs and the Secretary of De-
7 fense jointly consider appropriate, but the amount of any
8 such increase may not exceed \$350 per month.

9 “(2) In the case of a person who has a skill or spe-
10 cialty designated by the Secretary of Defense as a skill
11 or specialty in which there is a critical shortage of per-
12 sonnel or for which it is difficult to recruit or, in the case
13 of critical units, retain personnel, who is eligible for edu-
14 cational benefits under chapter 30 (other than section
15 3012) of this title and who meets the eligibility criteria
16 specified in subparagraphs (A) and (B) of section
17 3302(a)(1) of this title, the Secretary of Veterans Affairs
18 may increase the rate of the educational assistance allow-
19 ance applicable to that person to such rate in excess of
20 the rate prescribed under section 3015 of this title as the
21 Secretary of Veterans Affairs and the Secretary of De-
22 fense jointly consider appropriate, but the amount of any
23 such increase may not exceed \$350 per month.

24 “(3) The authority provided by paragraphs (1) and
25 (2) shall be exercised by the Secretary of Veterans Affairs

1 under regulations prescribed jointly by the Secretary of
 2 Veterans Affairs and the Secretary of Defense.

3 “(j) CONTINUATION OF ENTITLEMENT DURING
 4 QUARTER OR SEMESTER OF EXHAUSTION.—The provi-
 5 sions of section 3031(f) of this title shall apply to the pe-
 6 riod of entitlement of a person to educational assistance
 7 under this subchapter.

8 **“§ 3304. Termination of assistance**

9 “Educational assistance may not be provided under
 10 this subchapter—

11 “(1) to a member receiving financial assistance
 12 under section 2107 of title 10 as a member of the
 13 Senior Reserve Officers’ Training Corps program; or

14 “(2) to a member who fails to participate satis-
 15 factorily in required training as a member of the Se-
 16 lected Reserve.

17 **“§ 3305. Failure to participate satisfactorily; penalties**

18 “(a) PENALTIES.—At the option of the Secretary of
 19 the military department concerned, a member of the Se-
 20 lected Reserve of an Armed Force who does not participate
 21 satisfactorily in required training as a member of the Se-
 22 lected Reserve during a term of enlistment or other period
 23 of obligated service that created entitlement of the mem-
 24 ber to educational assistance under this subchapter, and

1 during which the member has received such assistance,
 2 may—

3 “(1) be ordered to active duty for a period of
 4 two years or the period of obligated service the per-
 5 son has remaining under section 3302 of this title,
 6 whichever is less; or

7 “(2) be subject to the repayment provisions
 8 under section 303a(e) of title 37.

9 “(b) EFFECT OF REPAYMENT.—Any repayment
 10 under section 303a(e) of title 37 shall not affect the period
 11 of obligation of a member to serve as a Reserve in the
 12 Selected Reserve.

13 **“§ 3306. Reports to Congress**

14 “(a) BIENNIAL REPORTS.—(1) The Secretary shall
 15 submit to Congress, not later than March 1 of each odd-
 16 numbered year, a report on the operation of the edu-
 17 cational assistance program carried out under this sub-
 18 chapter during the preceding two fiscal years.

19 “(2) Each report under paragraph (1) shall include
 20 the number of members of the Selected Reserve of the
 21 Ready Reserve of each Armed Force receiving, and the
 22 number of such members entitled to receive, educational
 23 assistance under this subchapter during each fiscal year
 24 covered by such report.

1 “(b) MODIFICATION OF REPORT FREQUENCY AND
 2 REPORT COVERAGE.—The Secretary may submit the re-
 3 port otherwise required by subsection (a) more frequently
 4 than is otherwise required by that subsection and adjust
 5 the period covered by the report accordingly.

6 “SUBCHAPTER II—RESERVE COMPONENT MEM-
 7 BERS SUPPORTING CONTINGENCY OPER-
 8 ATIONS AND CERTAIN OTHER OPERATIONS
 9 **“§ 3321. Purpose**

10 “The purpose of this subchapter is to provide edu-
 11 cational assistance to members of the reserve components
 12 called or ordered to active service in response to a war
 13 or national emergency declared by the President or Con-
 14 gress, in recognition of the sacrifices that those members
 15 make in answering the call to duty.

16 **“§ 3322. Educational assistance program**

17 “The Secretary of Veterans Affairs, in consultation
 18 with the Secretary of Defense and the Secretary of Home-
 19 land Security with respect to the Coast Guard when it is
 20 not operating as a service in the Navy, shall carry out
 21 under this subchapter a program to provide educational
 22 assistance to members of the Ready Reserve of the Armed
 23 Forces for the purpose specified in section 3321 of this
 24 title.

1 **“§ 3323. Eligibility**

2 “(a) IN GENERAL.—On or after October 1, 2008, a
3 member of a reserve component is entitled to educational
4 assistance under this subchapter if the member—

5 “(1) serves on active duty in support of a con-
6 tingency operation for 90 consecutive days or more;
7 or

8 “(2) in the case of a member of the Army Na-
9 tional Guard of the United States or Air National
10 Guard of the United States, performs full time Na-
11 tional Guard duty under section 502(f) of title 32
12 for 90 consecutive days or more when authorized by
13 the President or Secretary of Defense for the pur-
14 pose of responding to a national emergency declared
15 by the President and supported by Federal funds.

16 “(b) NOTICE ON ENTITLEMENT.—(1) Each member
17 who becomes entitled to educational assistance under sub-
18 section (a) shall be given a statement in writing prior to
19 release from active service that summarizes the provisions
20 of this subchapter and states clearly and prominently the
21 substance of sections 3325 and 3326 of this title as such
22 sections may apply to the member.

23 “(2) In accordance with a memorandum of under-
24 standing entered into between the Secretary of Veterans
25 Affairs and the Secretary of Defense, the Secretary of De-
26 fense shall transmit a notice of entitlement under sub-

1 section (a) for each member so entitled to the Secretary
2 of Veterans Affairs.

3 “(c) APPLICABILITY OF CERTAIN SERVICE TOWARD
4 ELIGIBILITY.—A member who qualifies for educational
5 assistance under this subchapter may not receive credit
6 for service under both the program established by chapter
7 30 of this title and the program established by this sub-
8 chapter, but shall make an irrevocable election (in such
9 form and manner as the Secretary may prescribe) as to
10 the program to which such service is to be credited.

11 “(d) BAR TO DUPLICATION OF EDUCATIONAL AS-
12 SISTANCE.—(1) Except as provided in paragraph (2), the
13 provisions of section 3033(a) of this title, relating to a
14 bar on duplication of receipt of certain educational assist-
15 ance benefits, apply with respect to the receipt of edu-
16 cational assistance under this subchapter.

17 “(2) Paragraph (1) does not apply with respect to
18 the entitlement of a member to educational assistance
19 under section 3303(i) of this title.

20 **“§ 3323A. Eligibility of individuals entitled to edu-**
21 **cational assistance under former chapter**
22 **1607 of title 10**

23 “(a) IN GENERAL.—Subject to the provisions of this
24 section, any individual entitled to educational assistance
25 under chapter 1607 of title 10 as of October 1, 2008, shall

1 be entitled to educational assistance under this subchapter
 2 thereafter for the programs of education, in the amounts,
 3 and subject to the conditions and limitations provided in
 4 sections 3324 through 3326 of this title.

5 “(b) LIMITATION ON MONTHS OF ENTITLEMENT.—
 6 The number of months of entitlement to educational as-
 7 sistance under this subchapter of an individual described
 8 in subsection (a) by reason of this section as of October
 9 1, 2008, shall be equal to the number of months of entitle-
 10 ment of such individual to educational assistance under
 11 chapter 1607 of title 10 that remain unutilized by such
 12 individual as of that date.

13 “(c) TIME LIMITATION FOR USE OF ENTITLE-
 14 MENT.—(1) Except as provided in paragraph (2), the pro-
 15 visions of section 16164 of title 10, as in effect on Sep-
 16 tember 30, 2008, shall apply to the time for the use by
 17 an individual described in subsection (a) of entitlement to
 18 educational assistance under this subchapter by reason of
 19 this section.

20 “(2) The provisions of section 3325(a)(2) of this title
 21 shall apply to the duration of the entitlement of an indi-
 22 vidual described by subsection (a) to educational assist-
 23 ance under this subchapter by reason of this section.

1 **“§ 3324. Amount**

2 “(a) IN GENERAL.—(1) The educational assistance
3 program under this subchapter shall provide for payment
4 by the Secretary of an educational assistance allowance
5 to each member entitled to educational assistance under
6 this subchapter—

7 “(A) if the member is pursuing a program of
8 education authorized under subsection (b) on a full-
9 time basis, at the monthly rate of—

10 “(i) for months occurring during fiscal
11 year 2009, the monthly rate payable under sec-
12 tion 3015(a)(1)(D) of this title for that fiscal
13 year; and

14 “(ii) for months occurring during a subse-
15 quent fiscal year, the amount for months occur-
16 ring during the previous fiscal year as increased
17 under paragraph (2); or

18 “(B) if the member is pursuing a program of
19 education authorized under subsection (b) on less
20 than a full-time basis, at an appropriately reduced
21 monthly rate, as determined under regulations pre-
22 scribed by the Secretary.

23 “(2)(A) With respect to any fiscal year, the Secretary
24 shall provide a percentage increase (rounded to the near-
25 est dollar) in the rate payable under paragraph (1)(A)
26 equal to the percentage by which—

1 “(i) the Consumer Price Index (all items,
2 United States city average) for the 12-month period
3 ending on the June 30 preceding the beginning of
4 the fiscal year for which the increase is made, ex-
5 ceeds

6 “(ii) such Consumer Price Index for the 12-
7 month period preceding the 12-month period de-
8 scribed in clause (i).

9 “(B) Any rounding under subparagraph (A) shall be
10 subject to the provisions of section 3015(h)(2) of this title.

11 “(b) AUTHORIZED EDUCATION PROGRAMS.—Edu-
12 cational assistance may be provided under this subchapter
13 for pursuit of any program of education that is an ap-
14 proved program of education for purposes of chapter 30
15 of this title.

16 “(c) TREATMENT OF CERTAIN DUTY AS COUNTING
17 TOWARD ENTITLEMENT.—Any month of active duty, or
18 full time National Guard duty, served by a member that
19 contributes under section 3323(a) of this title to the enti-
20 tlement of the member to educational assistance under
21 this subchapter shall be counted as a month for which the
22 member is entitled to educational assistance under this
23 subchapter.

24 “(d) MAXIMUM MONTHS OF ASSISTANCE.—(1) Sub-
25 ject to section 3695 of this title, the maximum number

1 of months of educational assistance that may be provided
 2 to any member under this subchapter is 36 (or the equiva-
 3 lent thereof in part-time educational assistance).

4 “(2)(A) Notwithstanding any other provision of this
 5 subchapter or chapter 36 of this title, any payment of an
 6 educational assistance allowance described in subpara-
 7 graph (B) shall not—

8 “(i) be charged against the entitlement of any
 9 member under this subchapter; or

10 “(ii) be counted toward the aggregate period for
 11 which section 3695 of this title limits a member’s re-
 12 ceipt of assistance.

13 “(B) The payment of an educational assistance allow-
 14 ance referred to in subparagraph (A) is the payment of
 15 such an allowance to a member for pursuit of a course
 16 or courses under this subchapter if the Secretary finds
 17 that the member—

18 “(i) had to discontinue such course pursuit as
 19 a result of being ordered to serve on active duty
 20 under section 12301(a), 12301(d), 12301(g), 12302,
 21 or 12304 of title 10; and

22 “(ii) failed to receive credit or training time to-
 23 ward completion of the member’s approved edu-
 24 cational, professional, or vocational objective as a re-

1 sult of having to discontinue, as described in clause
2 (i), the member's course pursuit.

3 “(C) The period for which, by reason of this sub-
4 section, an educational assistance allowance is not charged
5 against entitlement or counted toward the applicable ag-
6 gregate period under section 3695 of this title shall not
7 exceed the portion of the period of enrollment in the
8 course or courses for which the member involved failed to
9 receive credit or with respect to which such member lost
10 training time, as determined under subparagraph (B)(ii).

11 “(e) FLIGHT TRAINING.—(1) Educational assistance
12 is payable under this subchapter to a person entitled to
13 educational assistance under this subchapter for pursuit
14 of a program of education consisting of exclusively of
15 flight training approved under section 3034(d) of this
16 title, subject to the conditions specified in paragraphs (2)
17 and (4) of section 3032(e) of this title.

18 “(2)(A) For purposes of this subchapter, the rate of
19 payment of educational assistance allowances, and the
20 charge against entitlement for receipt of such allowances,
21 under this subsection shall be governed by the provisions
22 of section 3032(e) of this title.

23 “(B) In the administration of the provisions referred
24 to in subparagraph (A) for purposes of this subchapter—

1 “(i) a reference to ‘an individual’ shall be
2 deemed to be a reference to a member entitled to
3 educational assistance under this subchapter;

4 “(ii) a reference to ‘this chapter’ shall be
5 deemed to be a reference to this subchapter; and

6 “(iii) a reference to ‘the monthly rate of edu-
7 cation assistance which such individual would other-
8 wise be paid’ shall be deemed to be a reference to
9 the monthly amount payable under subsection
10 (a)(1)(A).

11 “(f) LICENSING AND CERTIFICATION TESTS.—(1)
12 Educational assistance is payable under this subchapter
13 to a member entitled to educational assistance under this
14 subchapter for a licensing or certification test described
15 in section 3452(b) of this title.

16 “(2)(A) For purposes of this subchapter, the amount
17 payable for a licensing or certification test, the charge
18 against entitlement for receipt of such payment, and the
19 effect of expiration of entitlement on payments, under this
20 subsection is governed by the provisions of section 3032(f)
21 of this title.

22 “(B) In the administration of the provisions referred
23 to in subparagraph (A) for purposes of this subchapter—

1 “(i) a reference to ‘an individual’ shall be
2 deemed to be a reference to a member entitled to
3 educational assistance under this subchapter;

4 “(ii) a reference to ‘this chapter’ shall be
5 deemed to be a reference to this subchapter; and

6 “(iii) a reference to ‘the full-time monthly insti-
7 tutional rate of educational assistance which such in-
8 dividual would otherwise be paid’ shall be deemed to
9 a reference to the monthly amount payable under
10 subsection (a)(1)(A).

11 **“§ 3325. Time limitation for use of entitlement**

12 “(a) DURATION OF ENTITLEMENT.—Except as pro-
13 vided in subsection (b), a member remains entitled to edu-
14 cational assistance under this subchapter—

15 “(1) while the member is serving—

16 “(A) in the Selected Reserve of the Ready
17 Reserve, in the case of a member called or or-
18 dered to active service while serving in the Se-
19 lected Reserve; or

20 “(B) in the Ready Reserve, in the case of
21 a member ordered to active duty while serving
22 in the Ready Reserve (other than the Selected
23 Reserve); and

24 “(2) in the case of a member who separates
25 from the Ready Reserve upon the completion of a

1 service contract under other than dishonorable con-
 2 ditions, and, if applicable, the fulfillment of an exist-
 3 ing military service obligation in accordance with
 4 section 651 of title 10, during the ten-year period
 5 beginning on the date on which the member sepa-
 6 rates from the Ready Reserve.

7 “(b) DURATION OF ENTITLEMENT FOR DISABLED
 8 MEMBERS.—(1) In the case of a person who is separated
 9 from the Ready Reserve because of a disability which was
 10 not the result of the person’s own willful misconduct in-
 11 curred on or after the date on which such person became
 12 entitled to educational assistance under this subchapter,
 13 the person’s entitlement to educational assistance expires
 14 at the end of the 10-year period beginning on the date
 15 on which the person became entitled to such assistance.

16 “(2) The provisions of subsections (d) and (f) of sec-
 17 tion 3031 of this title shall apply to the period of entitle-
 18 ment prescribed by paragraph (1).

19 **“§ 3326. Termination of assistance**

20 “(a) IN GENERAL.—Except as provided in subsection
 21 (b), educational assistance may not be provided under this
 22 subchapter, or if being provided under this subchapter,
 23 shall be terminated—

24 “(1) if the member is receiving financial assist-
 25 ance under section 2107 of title 10 as a member of

1 the Senior Reserve Officers' Training Corps pro-
 2 gram; or

3 “(2) when the member separates from the
 4 Ready Reserve, as provided for under subparagraph
 5 (A) or (B) of paragraph (1) of section 3325(a) of
 6 this title, as applicable, unless the member is other-
 7 wise covered by paragraph (2) of such section.

8 “(b) EXCEPTION.—Under regulations prescribed by
 9 the Secretary of Defense, educational assistance may be
 10 provided under this subchapter to a member of the Se-
 11 lected Reserve of the Ready Reserve who incurs a break
 12 in service in the Selected Reserve of not more than 90
 13 days if the member continues to serve in the Ready Re-
 14 serve during and after such break in service.

15 “SUBCHAPTER III—ADMINISTRATIVE MATTERS

16 “§ 3341. Administration of programs

17 “The provisions of sections 3470, 3471, 3474, 3476,
 18 3482(g), 3483, and 3485 of this title and the provisions
 19 of subchapters I and II of chapter 36 of this title (with
 20 the exception of sections 3686(a), 3687, and 3692) shall
 21 be applicable to the provision of educational assistance
 22 under subchapters I and II of this chapter. In the applica-
 23 tion of such provisions for purposes of subchapter I or
 24 II of this chapter, the terms ‘eligible veteran’ and ‘a per-
 25 son’, as used in such provisions, shall be deemed to refer

1 to a person or member eligible for educational assistance
 2 under the applicable subchapter.

3 **“§ 3342. Funding**

4 “(a) FUNDING FOR BENEFITS ACCRUING AFTER OC-
 5 TOBER 1, 2008.—(1) Payments for educational assistance
 6 under this chapter for persons entitled to such assistance
 7 under section 3302 or 3323 of this title shall be made
 8 from funds appropriated or otherwise made available to
 9 the Department of Veterans Affairs for the payment of
 10 readjustment benefits.

11 “(2) Payments for training and rehabilitation under
 12 section 3323(b) of this title shall be made from funds ap-
 13 propriated or otherwise made available to the Department
 14 of Veterans Affairs for the payment of readjustment bene-
 15 fits.

16 “(b) FUNDING FOR BENEFITS ACCRUING BEFORE
 17 OCTOBER 1, 2008.—Payments for educational assistance
 18 under this chapter for persons entitled to such assistance
 19 under section 3302A or 3323A of this title shall be made
 20 from amounts in the Department of Defense Education
 21 Benefits Fund under section 2006 of title 10 that are at-
 22 tributable to armed forces education liabilities under chap-
 23 ters 1606 and 1607 of title 10 that accrue before October
 24 1, 2008. Amounts for such payments shall be made avail-

1 able to the Secretary in accordance with the provisions of
2 section 2006(d) of title 10.”.

3 (2) CLERICAL AMENDMENTS.—The tables of
4 chapters at the beginning of title 38, United States
5 Code, and at the beginning of part III of such title,
6 are each amended by inserting after the item relat-
7 ing to chapter 32 the following new item:

**“33. Educational Assistance for Members of the Reserve
Components 3301”.**

8 (c) CONFORMING AMENDMENTS ON BAR ON DUAL
9 ELIGIBILITY FOR BENEFITS.—

10 (1) Section 3033 of title 38, United States
11 Code, is amended—

12 (A) in subsection (a)(1), by striking “chap-
13 ter 106 or 107 of title 10” and inserting
14 “under subchapter I or subchapter II of chap-
15 ter 33 of this title, under chapter 107 of title
16 10”; and

17 (B) in subsection (c), by striking “chapter
18 106 of title 10” and inserting “subchapter I of
19 chapter 33 of this title”.

20 (2) Section 3221(f) of such title is amended by
21 striking “chapter 106 of title 10” and inserting
22 “subchapter I of chapter 33 of this title”.

23 (3) Section 3681 of such title is amended—

1 (A) in subsection (a), by striking “34, 35,
 2 or 36 of this title or 106 or 107 of title 10,”
 3 and inserting “33, 34, 35, or 36 of this title”;
 4 and

5 (B) in subsection (b)—

6 (i) in paragraph (1), by inserting be-
 7 fore the period the following: “, and sub-
 8 chapters I and II of chapter 33 of this
 9 title”; and

10 (ii) in paragraph (2), by striking
 11 “Chapters 106 and” and inserting “Chap-
 12 ter 107”.

13 (d) CONFORMING AMENDMENTS RELATING TO DE-
 14 PARTMENT OF DEFENSE EDUCATION BENEFITS FUND.—
 15 Section 2006(b) of title 10, United States Code, is amend-
 16 ed—

17 (1) in paragraph (1), by striking “and chapters
 18 1606 and 1607”; and

19 (2) in paragraph (2)—

20 (A) by striking subparagraph (C); and

21 (B) by redesignating subparagraphs (D)
 22 and (E) as subparagraphs (C) and (D), respec-
 23 tively.

24 (e) CROSS-REFERENCE AMENDMENTS.—

1 (1) CHAPTER 106 OF TITLE 10, UNITED STATES
2 CODE.—

3 (A) Section 2131 of title 10, United States
4 Code, is amended to read as follows:

5 **“§ 2131. Reference to subchapter I of chapter 33 of**
6 **title 38**

7 “Provisions of law related to educational assistance
8 for members of the Selected Reserve under the Mont-
9 gomery GI Bill program, as formerly set forth in this
10 chapter and chapter 1606 of this title, are set forth in
11 subchapter I of chapter 33 of title 38 (beginning with sec-
12 tion 3301 of title 38).”.

13 (B) The table of sections at the beginning
14 of chapter 106 of such title is amended by
15 striking the item relating to section 2131 and
16 inserting the following new item:

“2131. Reference to subchapter I of chapter 33 of title 38.”.

17 (2) CHAPTER 1606 OF TITLE 10, UNITED
18 STATES CODE.—Chapter 1606 of such title is
19 amended by striking all after the chapter heading
20 and inserting the following:

“Sec.

“16131. Reference to subchapter I of chapter 33 of title 38.

1 **“§ 16131. Reference to subchapter I of chapter 33 of**
 2 **title 38**

3 “Provisions of law related to educational assistance
 4 for members of the Selected Reserve under the Mont-
 5 gomery GI Bill program, as formerly set forth in this
 6 chapter, are set forth in subchapter I of chapter 33 of
 7 title 38 (beginning with section 3301 of that title).”.

8 (3) CHAPTER 1607 OF TITLE 10, UNITED
 9 STATES CODE.—Chapter 1607 of such title is
 10 amended by striking all after the chapter heading
 11 and inserting the following:

“Sec.

“16161. Reference to subchapter II of chapter 33 of title 38.

12 **“§ 16161. Reference to subchapter II of chapter 33 of**
 13 **title 38**

14 “Provisions of law related to educational assistance
 15 for members of the reserve components of the armed
 16 forces supporting contingency operations and certain other
 17 operations, as formerly set forth in this chapter, are set
 18 forth in subchapter II of chapter 33 of title 38 (beginning
 19 with section 3321 of that title).”.

20 (f) ADDITIONAL CONFORMING AMENDMENTS.—

21 (1) TITLE 38, UNITED STATES CODE.—

22 (A) Section 3485 of title 38, United States
 23 Code, is amended—

1 (i) in subsection (a)(4)(E), by striking
 2 “chapter 1606 or 1607 of title 10” and in-
 3 serting “chapter 33 of this title”;

4 (ii) in subsection (b), by striking
 5 “chapter 30, 31, 32, or 34 of this title or
 6 chapter 1606 or 1607 of title 10,” and in-
 7 serting “chapter 30, 31, 32, 33, or 34 of
 8 this title”; and

9 (iii) in subsection (e)(1)—

10 (I) by striking “, chapter 30, 31,
 11 32, 35, or 36 of this title, or chapter
 12 1606 or 1607 of title 10” and insert-
 13 ing “or chapter 30, 31, 32, 33, 35, or
 14 36 of this title”; and

15 (II) by striking “section 2135 of
 16 such title” and inserting “section
 17 3305 of this title”.

18 (B) Section 3672(c) of such title is amend-
 19 ed—

20 (i) in paragraph (3)(A), by striking
 21 “chapters 30 and 35 of this title and chap-
 22 ter 1606 of title 10” and inserting “chap-
 23 ters 30, 33, and 35 of this title”; and

24 (ii) in paragraph (4), by striking
 25 “chapter 30 or 35 of this title, or chapter

1 1606 of title 10, as the case may be” and
2 inserting “chapter 30, 33, or 35 of this
3 title”.

4 (C) Section 3680A(d)(1) of such title is
5 amended—

6 (i) by striking “or under chapter 106
7 of title 10” the first place it appears; and

8 (ii) by striking “or chapter 30, 31, 32,
9 or 35 of this title or under chapter 106 of
10 title 10” and inserting “or chapter 30, 31,
11 32, 33, or 35 of this title”.

12 (D) Section 3684A(a)(1) of such title is
13 amended by striking “chapter 30 or 32 of this
14 title or in chapter 106 of title 10” and inserting
15 “chapter 30, 32, or 33 of this title”.

16 (E) Section 3688(b) of such title is amend-
17 ed by striking “, chapter 30, 32, or 35 of this
18 title, or chapter 106 of title 10” and inserting
19 “or chapter 30, 32, 33, or 35 of this title”.

20 (F) Section 3689 of such title is amended
21 by inserting “33,” after “32,” each place it ap-
22 pears.

23 (G) Section 3692 of such title is amend-
24 ed—

1 (i) in subsection (a), by striking “or
 2 35 of this title and chapter 1606 of title
 3 10” and inserting “33, or 35 of this title”;
 4 and

5 (ii) in subsection (b), by striking “,
 6 chapters 30, 32, and 35 of this title, and
 7 chapter 1606 of title 10” and inserting
 8 “and chapters 30, 32, 33, and 35 of this
 9 title”.

10 (H) Section 3695(a) of such title is
 11 amended—

12 (i) by striking paragraph (4) and in-
 13 serting the following new paragraph (4):

14 “(4) Chapters 30, 32, 34, 35, and 36 of this
 15 title and subchapters I and II of chapter 33 of this
 16 title.”; and

17 (ii) in paragraph (5), by striking “,
 18 1606, 1607,”.

19 (I) Section 3697(a) of such title is amend-
 20 ed by striking “chapter 30, 32, 34, or 35 of
 21 this title, or chapter 106 of title 10,” and in-
 22 serting “chapter 30, 32, 33, 34, or 35 of this
 23 title”.

24 (J) Section 3697A(b)(1) of such title is
 25 amended by striking “or 32 of this title or

1 chapter 106 or 107 of title 10” and inserting
 2 “32, or 33 of this title”.

3 (2) TITLE 10, UNITED STATES CODE.—Section
 4 510(h) of title 10, United States Code, is amend-
 5 ed—

6 (A) in paragraph (1)—

7 (i) in subparagraph (A), by striking
 8 “additional educational assistance under
 9 chapter 1606 of this title or to basic edu-
 10 cational assistance under subchapter II of
 11 chapter 30 of title 38” and inserting
 12 “basic educational assistance under sub-
 13 chapter II of chapter 30 of title 38 or edu-
 14 cational assistance under subchapter I of
 15 chapter 33 of that title”; and

16 (ii) in subparagraph (B)—

17 (I) by striking “chapter 1606 of
 18 this title or chapter 30 of title 38”
 19 and inserting “chapter 30 or sub-
 20 chapter I of chapter 33 of title 38”;
 21 and

22 (II) by striking “either such
 23 chapter” each place it appears and in-
 24 serting “either such provisions”; and

(B) in paragraph (3)(A), by striking “educational assistance under chapter 1606 of this title” and all that follows through “as the case may be” and inserting “basic educational assistance under chapter 30 of title 38 or educational assistance under subchapter I of chapter 33 of that title from an entitlement to such basic educational assistance under chapter 30 of that title or educational assistance under subchapter I of chapter 33 of that title, as the case may be”.

(3) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Section 2304(g) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6674(g)) is amended by striking “chapter 30 of title 38 or chapter 1606 of title 10” and inserting “chapter 30 or 33 of title 38”.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect on October 1, 2008.

(2) NO ADJUSTMENT IN ASSISTANCE AMOUNTS FOR FISCAL YEAR 2009.—The adjustment in amounts of educational assistance otherwise required for fiscal year 2009 under section 3303(a)(2) of title

- 1 38, United States Code (as amended by subsection
- 2 (b)), shall not be made.

○